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July 26, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**RECOMMENDATION FOR DISTRIBUTION AND USE OF FEDERAL SOUTHWEST
BORDER PROSECUTION INITIATIVE (SWBPI) FUNDS FOR THE PERIOD OF
OCTOBER 1, 2001 THROUGH DECEMBER 17, 2004
ALL DISTRICTS (3 VOTES)**

IT IS RECOMMEND THAT YOUR BOARD:

1. Authorize the District Attorney to distribute federal SWBPI funds in the amount of \$205,019 to the Alternate Public Defender (APD), \$704,653 to the Public Defender (PD), \$1,929,955 to the Sheriff Department, and \$4,804,740 to the District Attorney's Office, for a total of \$7,644,367, to partially reimburse and offset the cost of prosecuting federally initiated and referred criminal cases.
2. Instruct the District Attorney's Office to work with the Auditor-Controller to transfer the SWBPI funds held in trust into the departmental operating budgets for the APD, PD, Sheriff and District Attorney.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On November 19, 2002, the Board of Supervisors (Board) authorized the District Attorney to prepare an application for reimbursement from the Federal Southwest Border Prosecution Program for a portion of the cost for prosecuting federally initiated and referred criminal cases. The Board further authorized the District Attorney to:

- Determine the number and duration of prosecuted cases and other information needed for the application process and coordinate with the Sheriff, APD and PD to determine the number of cases that received defense or pre-trial detention services and were not reimbursed by the State Criminal Alien Assistance Program.

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- File a timely electronic application requesting reimbursement of prosecution, defense, and pre-trial detention costs in all eligible federally initiated and declined cases; and
- Report back to the Board with the results of the application and joint recommendations on the use of the anticipated revenue.

As of this date, a total of \$7,664,367 has been received in three separate installments, and the funds have been held in a trust account, pending distribution by the Board based on our recommendation report, and concurrence of the Chief Administrative Officer. The increments which have been received and the allocation formula are illustrated on Attachment I of this letter.

Implementation of Strategic Plan Goals

Approval of the recommended distribution and uses of SWBPI funds supports the County's Strategic Plan Goal No. 4, Fiscal Responsibility in identifying and securing an available revenue source at the federal level.

FISCAL IMPACT/FINANCING

The District Attorney's Office proposes the following distribution of SWBPI funds based upon workload figures provided by the Sheriff, Public Defender and Alternate Public Defender. The recommended allocation formula is illustrated in Attachment I.

2.68%	APD	\$ 205,019
9.22%	PD	\$ 704,653
25.25%	Sheriff	\$1,929,955
<u>62.85%</u>	<u>District Attorney</u>	<u>\$4,804,740</u>
100%		\$7,644,367

APD Allocation:

	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>
Amount:	\$0.2 million	To be determined	To be determined
Use:	One-time expenditures in services and supplies		

PD Allocation:

	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>
Amount	\$0.7 million	To be determined	To be determined

Use: JABG and Case File Storage

Sheriff Allocation:

	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>
Amount	\$1.9 million	\$0.5 million	\$0.5 million

Use: Backfill of overtime costs in the Sheriff Department's custody facilities.

District Attorney Allocation:

	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>
Amount:	\$1.5 million	\$1.5 million	\$1.5 million

Use:	JOIN CLEAR ACT	JOIN CLEAR ACT	JOIN CLEAR ACT
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Based on current federal practice and county caseloads, we anticipate the County will continue to receive approximately \$2 million per year in SWBPI funds. The District Attorney and Sheriff's Department are able to assemble their electronic data rapidly, and the county's completed quarterly claim, which typically totals about \$1 million, can be submitted via the federal website as soon as it opens to accept claims. Unfortunately, federal claims are currently being reimbursed at approximately 50 percent. The SWBPI website has been closed for upgrading and recently reopened on June 1, 2005. On June 2, 2005, the District Attorney submitted one quarter's claim (January – March 2005) for \$1,010,000 in claimed reimbursement. If reimbursement remains at or about 50 percent, the county can expect to recover about \$500,000 in SWBPI payment for that claim. Therefore, on an annual basis we could expect to receive approximately \$2,000,000 per year from this source.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Under the SWBPI, the federal government will partially reimburse the County for the costs of pre-trial detention and prosecution of defendants in federally initiated cases that were prosecuted in State court by Los Angeles County Deputy District Attorneys.

Claims for reimbursement may be presented for cases in which the federal government has collaborated with Los Angeles County investigations, or for cases in which a formal declination of federal charges was prepared in lieu of prosecution for related California State charges.

SWBPI's federal schedule calculates payment based on the number of days the defendant's case remained in the criminal justice system from arrest to final adjudication. To be eligible for payment for detention services, the Sheriff must have held a defendant overnight for one or more days in a secure facility. Where both prosecution and pre-trial detention were provided, reimbursement levels are based upon the greater of the two periods:

Category 1	0 -15 days	= \$ 2,500;
Category 2	16-30 days	= \$ 5,000;
Category 3	31-90 days	= \$ 7,500;
Category 4	over 90 days	= \$10,000

If only one service (prosecution or pre-trial detention) was provided, reimbursement is provided at half the above amounts based on the actual number of days services were provided.

SWBPI guidelines state: "Jurisdictions that participate in SCAAP or other federal grant, payment, or reimbursement programs are eligible and encouraged to apply. In the unlikely event that an applicant may receive in excess of 100% of their actual costs for prosecution and/or detention services once all federal funds are combined, the number of cases reported should be adjusted prior to submission." At submission, the jurisdiction's CEO or designee certifies that the total application amount, when combined with other federal funds provided to the jurisdiction for that reporting period, does not exceed 100% of the jurisdiction's annualized costs for prosecution and/or pre-trial detention services.

The guidelines further state: "Given sufficient funds, all applicants will receive 100% of the calculated dollar amount for total cases eligible for payment, as determined by the application process. If application amounts exceed available funds, applicants will receive funds on a uniform, pro-rate basis." Because Congress has not appropriated sufficient funds for SWBPI, claims are currently being paid at approximately 50% of the actual case value.

The District Attorney prepared and submitted the County's SWBPI applications using case records identified from the District Attorney's automated record system, and the Sheriff's Department verified pre-trial detention services to these defendants. For cases finally adjudicated from October 1, 2001 through December 17, 2004, the County has received \$7,644,367 for prosecution and pre-trial detention services.

The SWBPI guidelines also state: "Funds from SWBPI federal payments may be used by applicant jurisdictions for any purpose not otherwise prohibited by federal law. The direct support and enhancement of jurisdictions' prosecutorial and detention services are encouraged."

According to the SWBPI database, 25 California counties have received a total of \$46,861,891 in SWBPI reimbursement. The majority of California counties awarded funds only to the District Attorney and Sheriff's Department, although eight counties (San Diego, Sacramento, Santa Barbara, Kern, San Luis Obispo, Stanislaus, Merced, and Mendocino) allocated 100% of their funds to the District Attorney for critical public prosecution services. Only two California counties (Alameda and Imperial) awarded any SWBPI funds to a Public Defender. In all California counties, less than .0006% of SWBPI funds have been allocated to a Public Defender.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

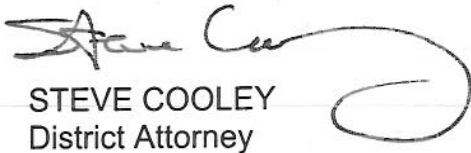
This program does not propose any attorney staff augmentations. The SWBPI program will reimburse APD, District Attorney, PD, and Sheriff Departments for previously rendered services. The additional resources will offset various unfunded program costs described in the Fiscal Impact section of this letter.

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CONCLUSION

Following Board authorization to distribute the funds as recommended and approve the use of funds, the Executive Officer-Clerk of the Board is requested to return two copies of the adopted Board Letter to Norbert Ruiz, Los Angeles County District Attorney's Office, Contracts and Grants Unit, 201 North Figueroa Street, Suite 1300, Los Angeles, California 90012. Any questions may be directed to Mr. Ruiz at (213) 202-7655.

Very truly yours,


STEVE COOLEY
District Attorney

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Enclosure

c: Chief Administrative Officer
County Counsel

CALCULATIONS TO DISTRIBUTE THE COUNTY'S SWBPI FUNDING (\$7,644,367)

(PERIOD FROM 10/1/01 TO 12/17/04)

FIRST DISTRIBUTION: PERIOD FROM 10/1/01 TO 3/31/03

I. Number of Cases by Category for APD and PD

Total Cases	Cases		Percentage	
	APD	PD	APD	PD
Category 1 cases	26	1	14	1.92%
Category 2 cases	52	0	26	0.00%
Category 3 cases	191	19	13	4.97%
Category 4 cases	408	24	118	2.94%
	677	44	171	

II. LA County SWBPI Reimbursement Allocation:

	Total County Funding Awarded	Category's % of Amount Awarded	Proportional Spread of Sheriff's Funding	Remaining Prosecution/ Defense Funding
Category 1 cases	\$57,500.00	1.06%	\$14,373	\$43,127
Category 2 cases	242,500.00	4.46%	60,618	181,882
Category 3 cases	1,320,000.00	24.26%	329,964	990,036
Category 4 cases	3,820,000.00	70.22%	954,895	2,865,105
Total Funding Allocation:	\$5,440,000.00	100.00%	\$1,359,850	\$4,080,150

III. Prosecution/Defense Funding Allocation:

	Total Prosecution/ Defense Funding	DA	APD	PD	Total
Category 1 cases	\$43,127	\$30,687	\$829	\$11,611	\$43,127
Category 2 cases	181,882	136,412	0	45,471	181,882
Category 3 cases	990,036	907,101	49,243	33,692	990,036
Category 4 cases	2,865,105	2,366,521	84,268	414,317	2,865,105
Total Cost Recovery:	\$4,080,150	\$3,440,719	\$134,340	\$505,091	\$4,080,150

SUMMARY:

	Amount	Percentage
Sheriff	\$ 1,359,850.00	25.00%
DA	3,440,719.00	63.25%
APD	134,340.00	2.47%
PD	505,091.00	9.28%
Total	5,440,000.00	100.00%

SECOND DISTRIBUTION: PERIOD FROM 4/1/03 TO 12/31/03

Total Cases	Cases		Percentage	
	APD	PD	APD	PD
Category 1 cases	12	0	9	0.00%
Category 2 cases	40	4	23	5.00%
Category 3 cases	105	9	28	4.29%
Category 4 cases	241	20	45	4.15%
	398	33	105	

II. LA County SWBPI Reimbursement Allocation:

	Total County Funding Awarded	Category's % of Amount Awarded	Proportional Spread of Sheriff's Funding	Remaining Prosecution/ Defense Funding
Category 1 cases	16,449	0.95%	2,400	14,049
Category 2 cases	117,263	6.80%	24,187	93,076
Category 3 cases	347,588	20.17%	56,413	291,176
Category 4 cases	1,241,902	72.07%	356,603	885,300
Total Funding Allocation:	1,723,202	100.00%	439,602	1,283,600

III. Prosecution/Defense Funding Allocation:

	Total Prosecution/ Defense Funding	DA	APD	PD	Total
Category 1 cases	14,049	8,780	0	5,268	14,049
Category 2 cases	93,076	93,075	0	0	93,075
Category 3 cases	291,176	291,176	0	0	291,176
Category 4 cases	885,300	885,300	0	0	885,300
Total Cost Recovery:	1,283,600	1,278,332	0	5,268	1,283,600

SUMMARY:

	Amount	Percentage
Sheriff	439,602	25.51%
DA	1,076,229	62.46%
APD	53,867	3.13%
PD	153,503	8.91%
Total	1,723,202	100.00%

THIRD DISTRIBUTION: PERIOD FROM 10/1/04 TO 12/17/04

Total Cases	Cases		Percentage	
	APD	PD	APD	PD
Category 1 cases	5	1	2	10.00%
Category 2 cases	11	1	9	4.55%
Category 3 cases	27	1	6	1.85%
Category 4 cases	81	9	18	5.56%
	124	12	35	

II. LA County SWBPI Reimbursement Allocation:

	Total County Funding Awarded	Category's % of Amount Awarded	Proportional Spread of Sheriff's Funding	Remaining Prosecution/ Defense Funding
Category 1 cases	6,160.89	0.95%	912.47	5,248.42
Category 2 cases	25,875.73	6.80%	3,626.47	22,249.26
Category 3 cases	94,261.57	20.17%	21,969.27	72,292.30
Category 4 cases	354,867.10	72.07%	103,994.93	250,872.17
Total Funding Allocation:	481,165.29	100.00%	130,503.14	350,662.15

III. Prosecution/Defense Funding Allocation:

	Total Prosecution/ Defense Funding	DA	APD	PD	Total
Category 1 cases	5,248.42	3,673.89	524.84	1,049.68	5,248.42
Category 2 cases	22,249.26	22,248.26	0.00	0.00	22,248.26
Category 3 cases	72,292.30	72,292.30	0.00	0.00	72,292.30
Category 4 cases	250,872.17	250,872.17	0.00	0.00	250,872.17
Total Cost Recovery:	350,662.15	349,087.62	524.84	1,049.68	350,662.15

SUMMARY:

	Amount	Percentage
Sheriff	130,503.14	27.12%
DA	287,791.07	59.81%
APD	16,812.26	3.49%
PD	46,056.82	9.57%
Total	481,165.29	100.00%

GRAND TOTAL	
Sheriff	\$ 1,929,955.23
DA	4,804,739.33
APD	205,019.44
PD	704,653.29
	\$ 7,644,367.29